

United States Constitutional Authority

Recruit Handout

April 2019

TITLE:

United States Constitutional Authority

DURATION:

4 Hours

STUDENT PERFORMANCE OBJECTIVES:

- LUCA1: Explain the United States Constitution's relevance to policing in today's society
- LUCA2: Recognize the amendments impacting criminal procedure
- LUCA3: Identify key Supreme Court cases that guide police policy, procedure, and behavior

HOOR 1

- LUCA1: Explain the United States Constitution's relevance to policing in today's society

INTRODUCTION:

What is the Oath you take as a Chicago Police Officer?

What are the legal consequences of violating Constitutional Rights?

DISCUSSION QUESTIONS:

What do you think are the most important issues related to constitutional policing?
What issues have you heard about or read about?

What constitutional rights are most relevant to policing? List any you can think of.

How do you think knowing the law relates to being a police officer?

What are your goals as an individual officer and what they think they can do to improve the Chicago Police Department as it relates to civil rights?

HOOR 2: The Bill of Rights

- LUCA2: Recognize the amendments impacting criminal procedure

The Preamble:

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

The **three branches of government** represent an important organizational feature of the United States government: the separation of powers. The separation of powers helps to ensure that one branch of government will not hold too much power and overrun the will of the people or overrun the freedom of the people.

The Fourth, Fifth, and Sixth Articles establish federalism, describing the rights and responsibilities of state governments and their relationship with the federal government.

Regarding the Fourth Article, state courts have to recognize the authority of other state courts. States cannot discriminate against citizens from other states. And the federal government will protect the states from domestic violence or foreign invasion.

Regarding the Fifth Article, the legislative branch of government may propose new Amendments to the United States Constitution. The states may then ratify or not ratify the new Amendments to the United States Constitution. The states also reserve the right to propose new Amendments to the United States Constitution.

Regarding the Sixth Article, the federal government and the United States Constitution have supreme authority over the states. All of the federal elected officials and state elected officials are bound by oath or affirmation to support the United States Constitution. And religious affiliations cannot disqualify anyone from any public office.

The Amendments to the United States Constitution

Amendments are changes or additions to legal documents. In the case of the United States Constitution, its Amendments further define the powers and rights within the constitutional democracy. The first ten Amendments to the United States Constitution are called the Bill of Rights.

There are twenty-seven Amendments to the United States Constitution.

The Bill of Rights offer protection of individual liberty and justice and place limits on powers of government.

These amendments were ratified December 15, 1791, and form what is known as the "Bill of Rights."

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Which Amendments Most Relate Directly to Police Work?

The constitutional rights of all persons must be protected. It is unlawful for any person who is acting under the color of law to deprive anyone of their constitutional rights.

First Amendment:

Fourth Amendment:

Fifth Amendment:

Sixth Amendment:

Eighth Amendment:

NOTE:

The **Fourteenth Amendment** has significant influence on criminal justice. This post-Civil War Amendment guarantees citizenship rights and equal protection of the laws. The Amendment makes it unlawful for local and state government officials to deprive citizens of life, liberty, or property without due process. Through the Fourteenth Amendment, the Bill of Rights are applicable to the states.

Hours 3-4

LUCA3: Identify key Supreme Court cases that guide police policy, procedure, and behavior.

Supreme Court Cases

Landmark court cases are Supreme Court cases that establish precedents and create important new legal principles. Landmark court cases have lasting effects on the law and individual rights. Such cases may be referenced and studied for many, many years after they are interpreted by the court. Many cases have determined and regulated the behaviors of the police.

The power of the United States Supreme Court: the court overturns a decision in which the lower court imposed death sentences.

Powell v. Alabama, 287 U.S. 45 (1932)

In the landmark case of Powell v. Alabama also known as the Scottsboro Boys case:

Nine African-American young men ride on a freight train. They get into a physical altercation with several white young men. The African-American young men are removed from the train. Two white women also ride the train, and they falsely accuse the African-American young men of sexual assault. The African-American young men are arrested for sexual assault. Medical examinations of the two white young women refute the sexual assault charges. The defendants are tried separately, and each trial lasts for just hours. All of the defendants are convicted, and eight of the defendants are sentenced to death.

The issue in the Scottsboro Boys case is whether or not defendants in capital punishment cases are entitled to thorough investigations and sufficient representation in court. **The Supreme Court decided that such defendants are entitled to due process within the meaning of the Fourteenth Amendment. The right to representation by an attorney is fundamental to fairness in court.**

Gideon v. Wainwright, 372 U.S. 335 (1963)

In the landmark case of Gideon v. Wainwright:

A pool room is burglarized. Based on information from an eyewitness, police arrest a man. The man appears before the state court and explains that he cannot afford an attorney. The man requests that the court appoint him an attorney. The court declines to appoint an attorney. The man defends himself in a jury trial. The court finds the man guilty and sentences him to five years in prison. While in prison, the man appeals to the Supreme Court and argues that his constitutional rights were violated because the state court denied his request for an attorney.

The issue in the case is whether or not courts are required to appoint attorneys to an indigent defendant.

Question for discussion: Would a person's rights be violated if the reason they could not exercise their right to counsel was because they didn't have enough money to pay for one?

Mapp v. Ohio, 367 U.S. 643 (1961)

In the landmark court case of Mapp v. Ohio:

Police officers receive an anonymous tip that a bombing suspect is holed up inside of a residence. The tipster also relates that paraphernalia related to the bombing is inside of the residence. Police officers respond to the residence and knock on the door. The homeowner answers the door. The police officers ask to enter the residence, but the homeowner refuses to admit them without a search warrant.

The police officers leave and return several hours later. The homeowner does not answer the door, and the police officers forcibly enter the residence. The homeowner asks to see the search warrant. The police officers display some paper. The homeowner and police officers struggle for possession of the paper. The police officers recover the paper and search the residence. The police officers find pornographic materials in the basement and arrest the homeowner for the possession of the materials. The paper displayed by the police officers is never seen again by the homeowner or the homeowner's attorney.

Question: Should evidence discovered during an unconstitutional search and seizure be admissible in court proceedings?

Miranda v. Arizona, 384 U.S. 436 (1966)

In the landmark court case of Miranda v. Arizona, the Supreme Court consolidated several cases including the case of Ernesto Miranda:

Police officers have circumstantial evidence that a man is linked to the kidnapping and rape of an eighteen-year-old woman. Police officers arrest the man. Without notifying the man of his constitutional rights, the police officers interrogate him for two hours. The man signs a confession that states he was aware of his rights.

Question: Should police officers be required to notify an arrestee of their constitutional rights before the arrestee is interrogated?

Terry v. Ohio, 392 U.S. 1 (1968)

In the landmark case of Terry v. Ohio:

Two men repeatedly walk up and down the same street. Periodically, they stop in front of the same store window and look inside the store. A third man joins the group but leaves after a quick conversation. A plainclothes police officer observes the men and suspects that they are planning a robbery. The police officer follows the men. When the third man rejoins the group, the police officer makes an investigatory stop and frisks the men for weapons. The police officer recovers two handguns. The men are charged with the unlawful possession of concealed weapons. In court, the men argue that their constitutional rights were violated because the police officer searched them without having probable cause.

Questions:

Should officers be permitted to detain citizens against their will for questioning with less than probable cause to arrest?

In the context of a lawful stop, should officers be permitted to do any type of warrantless search of the person?

Graham v. Connor, 490 U.S. 386 (1989)

In the landmark court case of Graham v. Connor:

A man drives his friend to a convenience store. The friend is diabetic. The diabetic man is anticipating an insulin reaction. Insulin reactions can be life-threatening. To counteract the insulin reaction, the diabetic man rushes into the store to buy orange juice. The convenience store is too crowded, so the man hurries back outside wanting to travel to another location instead. A police officer witnesses the event and suspects that the men have robbed the convenience store.

The police officer makes an investigatory vehicle stop. The diabetic man is handcuffed. With the help of backup units, the police officer discovers that the convenience store was not robbed. The diabetic man sustains several injuries including a broken foot and bruised forehead. In court, the diabetic man claims that his constitutional rights were violated and the police officers used excessive force.

Question: What is the constitutional amendment that should be used to decide whether or not the police use of force was constitutional?

Courtroom procedure notes:

The Sixth Amendment of the Constitution guarantees the rights related to criminal trials. The Fourteenth Amendment of the Constitution guarantees the rights related to due process. Few criminal cases go to trial. Bench trials are decided by the judge. Jury trials are decided by a group of jurors. Whether the case is decided by a judge or by a jury, the overall procedures of the trial are similar.

- **Bailiff:** The bailiff provides security and maintains order in the court. The bailiff may also provide administrative support by delivering documents and supplies to the judge or other court participants.
- **Court clerk:** The court clerk maintains and administers the records of the court. Sometimes called the clerk of the court, the court clerk may also administer oaths to the witnesses and jurors.
- **Court reporter:** The court reporter uses a stenotype machine to transcribe the court proceedings. Sometimes called a court stenographer or stenotype operator, the court reporter creates an official transcript of the court proceedings.
- **Defendant:** The defendant is the person in court who is accused of committing a crime. The defendant will present an argument or defend himself against the criminal accusation.
- **Defense attorney:** The defense attorney represents the defendant. Sometimes called the defense counsel or defense lawyer, the defense attorney makes sure that the defendant is afforded all of their constitutional rights.
- **Judge:** In the case of a bench trial, the judge decides whether or not the defendant is guilty. The judge also imposes the sentence if the defendant is found guilty.
- **Jury:** In the case of a jury trial, the jurors decide whether or not the defendant is guilty. Jurors are member of the community. They evaluate the evidence and make decisions based on the rules of law. The area where the jurors sit may be called the jury box.
- **Plaintiff:** The plaintiff is the person in court who is making an accusation against the defendant. Sometimes called the complainant or complaining witness, the plaintiff has the burden of proof to show that an unlawful action has been committed.
- **Prosecutor:** The prosecutor or prosecuting attorney represents the state. Sometimes called the district attorney or state attorney, the prosecutor brings the criminal charges against the defendant and tries to prove that the defendant is guilty.
- **Spectators:** The court spectators observe what is happening in court. They have no formal role in the court proceedings. The area where the spectators sit may be called the gallery.

